

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

v.

Case No. 07-13822

DERRICK WILSON,
LIEUTENANT ATKINS, CAPTAIN WALLACE,
SISTER PEGGY DEVANEY, OAKLAND
COUNTY JAIL ADMINISTRATOR, OAKLAND
COUNTY JAIL CLASSIFICATION DEPARTMENT,
MARY, and JOHN DOES,

HONORABLE AVERN COHN

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR STAY OF PROCEEDINGS
AND DIRECTING PLAINTIFF TO FILE SUPPLEMENTAL PAPER BY MONDAY
JANUARY 11, 2010 OR CASE WILL BE DISMISSED**

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se and in forma pauperis (IFP). Plaintiff raised a host of claims regarding his incarceration at the Oakland County Jail (OCJ) from June 24, 2005 through July 6, 2006 as a pre-trial detainee. The case has been referred to a magistrate judge for pre-trial proceedings and before whom certain defendants filed a motion for summary judgment. On March 30, 2009, the Court adopted the magistrate judge's report and recommendation (MJRR) on the summary judgment motion in part. Only plaintiff's First Amendment § 1983 claim and statutory claim regarding the provision of Kosher meals remain.

On March 30, 2009, plaintiff was directed to file a supplemental paper regarding

his claims within thirty (30) days. Particularly, plaintiff's supplemental paper was to detail:

1. The legitimacy of his right to Kosher meals
2. A list of which defendant(s) were responsible for the allegedly inadequate provision of Kosher meals and the role of each defendant regarding the provision of Kosher meals.

See Order filed March 30, 2009. Plaintiff did not comply with this order.

Accordingly, on October 29, 2009, the Court entered an order requiring plaintiff "to file the supplemental paper within fifteen (15) days from the date of this order or face potential dismissal of the case." See Order filed October 29, 2009. Plaintiff did not comply with this order.

On November 25, 2009, the Court entered an Order to Show Cause which required that plaintiff "**SHOW CAUSE in writing by December 4, 2009** as to why the case should not be dismissed for failure to comply with the Court's orders of March 30, 2009 and October 29, 2009 requiring the filing of a supplemental paper. Failure to respond will result in dismissal of the case. See Fed. R. Civ. P. 41(b); E.D. Mich. LR 41.2." Plaintiff did not respond to the show cause.

However, on December 4, 2009, the Court received two filings by plaintiff: a Motion for Stay of Proceedings and a Notice of Change of Address, which plaintiff signed and dated November 28, 2009. In the motion to stay, plaintiff says he was arrested in Oakland County on November 14, 2009 and has been in the Oakland County Jail ever since. Plaintiff requests a stay of 60 days and copies of all orders/filings in the case in the last 45 days be served on him at the Oakland County Jail.

Based on these papers, it appears that plaintiff did not receive the Court's show cause order due to his incarceration. Be that as it may, the Court is not going to stay proceedings in the case because of plaintiff's incarceration. Accordingly, plaintiff's motion for stay of proceedings is DENIED. However, the Court will permit plaintiff one last opportunity to comply with its orders of March 30, 2009, October 29, 2009 and November 25, 2009 regarding the filing of a supplemental papers. **Plaintiff shall have until Monday, January 11, 2010 in which to file the supplemental paper. Failure to do so will result in dismissal of the case. No extensions will be given.**

The Clerk is directed to mail plaintiff copies of the Court's orders of March 30, 2009, October 29, 2009, and November 25, 2009 together with this order at his address at the Oakland County Jail.

SO ORDERED.

Dated: December 16, 2009

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Daniel Horacek, 218347, Oakland County Jail, 1201 N. Telegraph Rd., Pontiac, MI 48343 and the attorneys of record on this date, December 16, 2009, by electronic and/or ordinary mail.

s/ Julie Owens
Case Manager, (313) 234-5160

